UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,051	02/21/2002	Walter Rosenbaum	4001-1019	9293

28204 7590 08/08/2006

SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH, CH-8047
SWITZERLAND

EXAMINER
KRISCIUNAS, LINDA MARY

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/069,051	ROSENBAUM, WALTER	
	Examiner	Art Unit	
	Linda Krisciunas	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *July 12, 2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a Final office action in response to the amendments filed July 12, 2006. Claims 1-9 are pending.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on July 12, 2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

3. The Examiner notes the update to the abstract and withdraws the objection. The Examiner notes the amendment to claim 1 and withdraws the claim objection. The Examiner notes the change to claim 6 and withdraws the claim rejection under 112, 2nd paragraph.

Response to Arguments

4. All statements of Official Notice made in the art rejection have been on record since issuance of the Non-Final office action rejection mailed on April 14, 2006, and in the subsequent response filed on July 12, 2006 the Applicant was silent on the matter of Official Notice. Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice.

5. Applicant's arguments filed July 12, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., page 8 of the Remarks, "does not include information linked to the anonymous party", "using the logged delivery times for any delivery coordination", and page 9 of the Remarks "coordinating the outward delivery times from suppliers") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. With regard to the amendment of the preamble of claim 1, the Examiner asserts that Stolfo et al (US 2004/0002903) teaches a database of a "dispatch center of a common dispatch service" as indicated in paragraphs 178-179 where the system provides for the delivery of goods whereby databases contain delivery information and communicate with a delivery facility so that once payment and delivery information is secured the delivery facility is notified to make the delivery.

With regard to the applicant's argument that Tsukada does not disclose determining the latest of the earliest possible arrival times of the articles at the dispatch center, the dispatch service notifying each supplier for the order concerned of the outward delivery time to be achieved, and the supplier sending out the ordered articles to the dispatch center at the notified times, and the articles being forwarded jointly to the customer. The Examiner asserts that Stolfo teaches determining the latest of the

earliest possible arrival times of the articles at the dispatch center, each arrival time being calculated by adding the respective transport time to the earliest possible outward delivery time (paragraph 175, where the delivery time is logged. The delivery time of the order would be the time when the order is complete, ie the last item is received, at the dispatch. Once the last product is logged, this represents the latest of the earliest arrival times. The arrival time to a customer would inherently be the cumulative time associated with the timing of when the order is complete and the transport time to the customer. It would be impossible to ship anything until the last item is received at the dispatch. For practical purposes a company cannot provide an arrival time or delivery date of a product until they know when they will have all of the components of the order. If there are 3 items and they are delivered to the dispatch center in 3, 4 and 7 days respectively. The arrival time to the customer will be based on the longest lead item of 7 days, plus the time it takes to ship the product to the customer. Ground shipment may take 5 days and air shipment 2 days. Therefore the product's arrival time at the customer if shipped via air would be 9 days (7+2).). Tsukuda teaches that it is known that the dispatch service notifying each manufacturer/supplier for the order concerned of the outward delivery time to be achieved, which is obtained from the latest of the earliest possible arrival times at the dispatch center minus the respective transport time from the manufacturer/supplier to the dispatch center (column 4, lines 53-57, where the scheduled date of arrival at the distribution center is transmitted through the network to the agents or suppliers. It is old and well known that the date provided to a supplier for their required delivery date would consist of the date the distribution center needs it

minus the time it will take the supplier to ship it to the distribution center. For practical purposes, if the distribution center is shipping out products on May 15th, they would inform the supplier that they need their component by May 8th (for example), thereby allowing time for the product to transport from the supplier to the distribution center. This provides a buffer of sorts to ensure the products will be at the distribution center in time to ship the complete order and meet customer demand.); the manufacturers/suppliers sending out the ordered articles to the dispatch center at the notified times, and the articles being forwarded jointly to the customer (column 8, lines 35-39, where the delivery of goods information is recorded and (122) delivery goods, where each item is delivered to the dispatch or distribution center according to the date); notifying the dispatch center of a common dispatch service of the earliest possible outward delivery time for each of the manufacturers/suppliers and saving this under the respective article number in database at the dispatch service (column 5, lines 49-52, where the earliest delivery date is obtained).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 cites "common" dispatch service, which is indefinite because the term is subjective and does not positively recite a definitive limitation.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolfo et al (US 2004/0002903) in view of Tsukuda (US 6,085,170).

As per claim 1, Stolfo teaches a method for the dispatch of articles where order data and customer details are saved in a database of a dispatch center of a dispatch service (paragraphs 178-179 where the system provides for the delivery of goods whereby databases contain delivery information and communicate with a delivery facility so that once payment and delivery information is secured the delivery facility is notified to make the delivery) characterized by: transferring or forwarding the order data from the customer to the manufacturers/suppliers of the requested articles (paragraph 30, where the electronic order of a good is communicated through the system and are saved in a database as noted in paragraph 35.); determining the latest of the earliest possible arrival times of the articles at the dispatch center, each arrival time being calculated by adding the respective transport time to the earliest possible outward delivery time (paragraph 175, where the delivery time is logged. The delivery time of the order would be the time when the order is complete, ie the last item is

received, at the dispatch. Once the last product is logged, this represents the latest of the earliest arrival times. The arrival time to a customer would inherently be the cumulative time associated with the timing of when the order is complete and the transport time to the customer. It would be impossible to ship anything until the last item is received at the dispatch. For practical purposes a company cannot provide an arrival time or delivery date of a product until they know when they will have all of the components of the order. If there are 3 items and they are delivered to the dispatch center in 3, 4 and 7 days respectively. The arrival time to the customer will be based on the longest lead item of 7 days, plus the time it takes to ship the product to the customer. Ground shipment may take 5 days and air shipment 2 days. Therefore the product's arrival time at the customer if shipped via air would be 9 days (7+2).). Stolfo does not explicitly teach a "delivery time to be achieved" or earliest delivery time. Tsukuda teaches that it is known that the dispatch service notifying each manufacturer/supplier for the order concerned of the outward delivery time to be achieved, which is obtained from the latest of the earliest possible arrival times at the dispatch center minus the respective transport time from the manufacturer/supplier to the dispatch center (column 4, lines 53-57, where the scheduled date of arrival at the distribution center is transmitted through the network to the agents or suppliers. It is old and well known that the date provided to a supplier for their required delivery date would consist of the date the distribution center needs it minus the time it will take the supplier to ship it to the distribution center. For practical purposes, if the distribution center is shipping out products on May 15th, they would inform the supplier that they

need their component by May 8th (for example), thereby allowing time for the product to transport from the supplier to the distribution center. This provides a buffer of sorts to ensure the products will be at the distribution center in time to ship the complete order and meet customer demand.); the manufacturers/suppliers sending out the ordered articles to the dispatch center at the notified times, and the articles being forwarded jointly to the customer (column 8, lines 35-39, where the delivery of goods information is recorded and (122) delivery goods, where each item is delivered to the dispatch or distribution center according to the date); notifying the dispatch center of a common dispatch service of the earliest possible outward delivery time for each of the manufacturers/suppliers and saving this under the respective article number in database at the dispatch service (column 5, lines 49-52, where the earliest delivery date is obtained). Tsukuda is an analogous art as it also teaches about product delivery systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the delivery system of Stolfo with the required delivery time feature of Tsukuda to provide a means for targeting delivery time to the end customer which would in turn improve customer satisfaction.

As per claim 2, Stolfo does not explicitly teach notifying the customer of the delivery. Tsukuda teaches that it is known the dispatch service notifies the customer of at least one proposal for the delivery time for confirmation (column 6, lines 58-67 and column 7, lines 1-3, where the agent notifies the client if the delivery date requested cannot be accommodated, which is equivalent to notifying the client of the delivery date as it performs an identical function in substantially the same manner with substantially

the same results.); the customer notifying the dispatch service of the confirmed delivery time (column 8, lines 64-67, where the customer confirms they will be home for the delivery which is equivalent to confirming the delivery time); postponing the outward delivery time to be achieved by the manufacturers/suppliers on the basis of the earliest possible delivery time to the customer, by the time difference between the confirmed and the earliest possible delivery time (column 12, lines 46-58, where the purchaser deletes the schedule to receive goods and the schedule is re-adjusted. This is equivalent to postponing the delivery as it performs an identical function in substantially the same manner with substantially the same results.); and determining the earliest possible delivery time to the customer by adding the transport time between dispatch center and customer onto the latest arrival time and then adding onto this a handling time at the dispatch service. Official notice is taken that it is well known that the delivery time of a product to a customer would include the time is takes to get the product to the dispatch center and the time it takes to transport from the dispatch or distribution center to the customer, plus some handling time at the distribution center for receiving and sending out the product. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to add up all the transportation and handling timelines in the supply chain, ie obtain the product, handle it and consequently send it to the customer, and determine the earliest delivery time. It would be impossible to ship anything until the last item is received at the dispatch. For practical purposes a company cannot provide an arrival time or delivery date of a product until they know when they will have all of the components of the order. If there

are 3 items and they are delivered to the dispatch center in 3, 4 and 7 days respectively. The arrival time to the customer will be based on the longest lead item of 7 days, plus handling time at the dispatch center and the time it takes to ship the product to the customer. It may take the dispatch center a day to receive in product and re-label it for shipment out to the customer. Ground shipment may take 5 days and air shipment 2 days. Therefore the product's arrival time at the customer if shipped via air would be 10 days (7+1+2).).

As per claim 3, Stolfo does not explicitly teach notifying transport times from the supplier to the dispatch or distribution center. Tsukuda teaches that it is known the dispatch service is notified of the transport times between the manufacturers/suppliers and the dispatch center (column 4, lines 53-57, where the scheduled date of arrival at the distribution center is transmitted through the network to the agents or suppliers. It is old and well known that the date provided to a supplier for their required delivery date would consist of the date the distribution center needs the product minus the time it will take the supplier to ship it to the distribution center. For practical purposes, if the distribution center is shipping out products on May 15th, they would inform the supplier that they need their component by May 8th (for example), thereby allowing time for the product to transport from the supplier to the distribution center. This provides a buffer of sorts to ensure the products will be at the distribution center in time to ship the complete order and meet customer demand), together with the earliest possible outward delivery times and the information saved in the database (paragraph 175, where the delivery time is logged. The delivery time of the order would be the time

when the order is complete, ie the last item is received, at the dispatch. Once the last product is logged, this represents the latest of the earliest arrival times. The arrival time to a customer would inherently be the cumulative time associated with the timing of when the order is complete and the transport time to the customer. It would be impossible to ship anything until the last item is received at the dispatch. For practical purposes a company cannot provide an arrival time or delivery date of a product until they know when they will have all of the components of the order. If there are 3 items and they are delivered to the dispatch center in 3, 4 and 7 days respectively. The arrival time to the customer will be based on the longest lead item of 7 days, plus the time it takes to ship the product to the customer. Ground shipment may take 5 days and air shipment 2 days. Therefore the product's arrival time at the customer if shipped via air would be 9 days (7+2).). Tsukuda is an analogous art as it also teaches about product delivery systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the delivery system of Stolfo with the transport time notification feature of Tsukuda to provide a more efficient means for scheduling deliveries which would provide improved operations and improved customer service.

As per claim 4, Stolfo teaches in order to determine the current transport times between manufacturers/suppliers and the dispatch center, these times are calculated, saved and statistically analyzed on a continuous basis (paragraph 75, where the shipment has a tracking number and can be tracked through a tracking system. It is old and well known in the art that package tracking systems calculate the delivery time

value and can determine the average delivery time which would constitute a statistical analysis. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to determine the average delivery time since there are multiple variables that contribute to the delivery time and tracking the times would provide quality data for determining the predictability of the delivery system.).

As per claim 5, Stolfo does not explicitly teach a supplier coordinating the dispatch. Tsukuda teaches that it is known that a single on-line supplier which coordinates the dispatch, leads to several sub-online suppliers (column 2, lines 37-41, where a distributor is used to provide a smooth delivery system, wherein a distributor connects products multiple suppliers to recipients. Tsukuda also notes that suppliers can be on the internet (column 1, lines 11-13)). Tsukuda is an analogous art as it also teaches about product delivery systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the delivery system of Stolfo with the required delivery time feature of Tsukuda to provide a means for efficiently scheduling delivery that will lead to improved customer satisfaction since they can rely on a required delivery time.

As per claim 6, Stolfo does not explicitly teach "exceeding a set delivery time". Tsukuda teaches that it is known the earliest outward delivery times of the articles from the manufacturers/suppliers are compared with each other, and where a set time difference between the earliest outward delivery times is exceeded the articles are not sent jointly to the customer (column 4, lines 53-57, where the scheduled date of arrival at the distribution center is transmitted through the network to the agents or suppliers.

It is old and well known that the date provided to a supplier for their required delivery date would consist of the date the distribution center needs it minus the time it will take the supplier to ship it to the distribution center. It is old and well known in the art that if the required delivery time is not met the order is not sent, whether it be jointly or not. For practical purposes, customers may order perishable or timely products such as tickets to an event and if they are not received by the required time the item is not shipped since it no longer has value for the customer. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a timeframe that when exceeded would stop the shipment of the product to provide a means for maintaining the value of the products and for meeting customer service expectations.). Tsukuda is an analogous art as it also teaches about product delivery systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the delivery system of Stolfo with the distributor feature of Tsukuda to provide a means for a more efficient and cost-effective delivery system since the system is utilizing a distributor instead of each company shipping items individually. This simplifies logistics since everything is sent to the distributor and also saves resources, including money since the companies are only shipping to a distributor and not everywhere where their customers live.

As per claim 7, Stolfo does not explicitly teach size of product to be delivered. Tsukuda teaches that it is known the size of the articles and their characteristics are also saved in the database, if required this information is checked in order to ascertain whether these articles can be sent in one parcel, and they are dispatched in one parcel

if a positive result is obtained from the check (column 6, lines 35-40 and column 9, lines 52-56, where the size of the goods is determined and subsequent shipping arrangements are made if they are deemed too large to fit in the space allotted.). Tsukuda is an analogous art as it also teaches about product delivery systems. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the delivery system of Stolfo with the required size determination feature of Tsukuda to provide a means for scheduling the delivery of large goods.

As per claim 8, Stolfo does not explicitly teach several possible manufacturers/suppliers for a specific article a selection is made on the basis of the shortest possible transport distances to the customer and/or the earliest possible outward delivery times. Official notice is taken that it is old and well known in the art that companies ship products from the closest distribution centers. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to ship from the shortest distance or fastest delivery location in order to reduce cost and expedite shipping, which also improves customer satisfaction.

As per claim 9, Stolfo teaches the customer selects the dispatch service (paragraph 84, where a preference for shipping mode can be made.).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMK

LMK
August 4, 2006

Romain Jeanty
Primary Examiner
Art Unit 3623